

**ATTACHMENT TO INTERVIEW OF JANUARY 5, 2009 Ser No 10/528824**

Attorney Steven P. O'Connor telephoned this Examiner on January 5, 2009 to notify this Examiner that the client(s) will submit an updated action indicating the status of the opposition to the European Patent. This Examiner was aware of the decision based on the EP web site that on December 16, 2008 the claims were allowed over the opposition as argued in the paper submitted in the IDS statement of January 10, 2008.

Attorney will provide the updated decision will be submitted on the record. However, this Examiner requested whether the instant claims were examined by the EP drawn to the elected gelled culture whereby the antibiotic was added to the medium before the medium gels?

Examiner indicated that whether consideration of the alleged "stability" for the instantly claimed gelled culture pertaining to the elected species for new claim 17 was considered whereby the specification:

For example, a stability of at least 2 months has been observed for a medium in accordance with the invention prepared with cefoxitin at a concentration of 5 mg/l, added to the medium when the latter is at a temperature of 48.degree. C. The stability of the medium in accordance with the invention has been brought to at least 5 months when said medium has been prepared with cefmetazole at a concentration of 2.5 mg/l, added to the medium when the latter is at a temperature of 48.degree. C.

And for new claim 17 whether the specific species flomoxef was also considered for the temperature whereby the specific antibiotic can be produced in a medium in the form of a single powder in accordance with the specification.

"It should also be noted that another cephalosporin, flomoxef, exhibits, for its part, the ability to conserve its antibiotic activity when it is subjected to a temperature of greater than 100.degree. C. (its resistance having even been verified by the inventors at 121.degree. C.).

Brief Summary Text:

[0033] Such a property makes it possible to produce a medium in accordance with the invention in the form of a single powder, which considerably limits the manipulations that have to be carried out under sterile conditions for the preparation of any culture medium. The flomoxef can therefore be incorporated into the medium being prepared, before heating, which facilitates the preparation thereof. This advantage is not insignificant since it is capable of facilitating the task of any individual having to prepare such media, whatever their experience in the field."

The above allegations were not considered on the record since the claimed subject matter was not submitted in the original claims which may or may not have been considered in the EP.

This Examiner will act on the instant application upon receipt of the intended additional papers for the record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HERBERT J. LILLING whose telephone number is 571-272-0918. The examiner can normally be reached on WORK AT HOME MAXIFLEX.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JON WEBER can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit **1657**

January 05, 2009

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